IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

OP.No. 34681 of 2000(D)

PETITIONER:

AJITHA.P.P., HIGH SCHOOL ASSISTANT (SOCIAL SERVICE)
GOVT. HIGH SCHOOL, THALAPUZHA, WAYANAD DIST.

BY ADV. SRI.V.RAJAGOPAL

RESPONDENTS:
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1. THE DIRECTOR OF PUBLIC INSTRUCTION,
TRIVANDRUM.

2. THE DEPUTY DIRECTOR OF EDUCATION,
KALPETTA, WAYANAD

3. THE PRINCIPAL, GOVT. HIGHER SECONDARY SCHOOL,
THALAPUZHA, WAYANAD DIST.

BY GOVT.PLEADER SMT.K.R.DEEPA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.59252/2000 IN O.P.NO.34681/2000

DISMISSED.

17-1-2007 SD/- KURIAN JOSEPH, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. TRUE COPY OF THE RELEVANT PORTION OF AUDIT REPORT, GOVT. HIGH SCHOOL, THALAPUZHA FOR THE YEAR 1-4-94 TO 31-3-1996

EXT.P2. TRUE COPY OF THE REPRESENTATION SENT BY THE PETITIONER TO THE DY. DIRECTOR OF EDUCATION KALPETTA DT. NIL

EXT.P3. TRUE COPY OF THE REPRESENTATION SENT BY THE PETITIONER TO THE 1ST RESPONDENT DT. 28-1-99

EXT.P4. TRUE COPY OF THE JUDGMENT IN O.P.20440/99 DT. 10-8-99 OF THIS HON. HIGH COURT.

EXT.P5. TRUE COPY OF THE ORDER DT. 14-6-2000 ISSUED BY THE 1ST RESPONDENT.

/ TRUE COPY /

KURIAN JOSEPH, J.

O.P.No. 34681 of 2000

Dated this the 17th day of January, 2007

JUDGMENT

The challenge is on Ext.P5 order passed by the first respondent whereby the petitioner has denied the benefit of the provisional service rendered by her for the purpose of increment. The provisional service is from 4-6-1990 to 29-11-1990. It is now settled law that provisional service prior to 1-10-1994 is liable to be counted for the purpose of increment. The only objection taken in the impugned order is that the provisional service cannot be counted since the appointment in the regular service is in the revised scale. That issue is covered in favour of the petitioner, being settled by several decisions of this court. For the only reason that there is change in the time scale owing to the pay revision the benefit of provisional service wherein an employee drew salary in the pre-revised scale cannot be denied (see the decision of this court in Hussain v. Kerala Water Authority, 1996 (2) KLT 555).

I quash Ext.P5. There will be a direction to the first respondent to pass fresh orders in the matter granting the benefit of provisional service for the purpose of increment in the case of the petitioner within a period of two months from the date of production of a copy of the judgment.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.

KURIAN JOSEPH, J.

O.P.NO.34681/2000

JUDGMENT

17th January, 2007